

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2021-30-T - ORDER NO. 2021-354

MAY 21, 2021

IN RE:	Application of Antioch Educational Center	)	ORDER GRANTING
	for a Class A (Restricted) Certificate of Public	)	CLASS A RESTRICTED
	Convenience and Necessity for Operation of	)	MOTOR CARRIER
	Motor Vehicle Carrier	)	CERTIFICATE

**I. INTRODUCTION**

This matter comes before the Public Service Commission of South Carolina (Commission) on the Application of Antioch Educational Center (Applicant) for a Class A Restricted Certificate of Public Convenience and Necessity to render motor carrier services on regular routes and schedules in Jasper and Beaufort counties.

**II. FACTS AND PROCEDURAL HISTORY**

Antioch Educational Center, a corporation located in Ridgeland, S.C., filed an Application for a Class A Restricted certificate of public convenience and necessity with the Commission on January 22, 2021. Applicant proposes to transport adult passengers to and from their places of employment in Jasper and Beaufort counties. By letter dated February 2, 2021, the Clerk's Office of the Commission instructed Applicant to publish the Notice of Filing (Notice) in newspapers of general circulation in the areas affected by the Application. The Notice provided information regarding the nature of the proceeding and advised any person desiring to participate as a party of record to file a Petition to Intervene on or before March 10, 2021. The Commission required Applicant to publish

the Notice on or before February 17, 2021, and to provide proof of publication no later than March 10, 2021. The Notice was published in the *Jasper County Sun Times* on February 10, 2021, and Applicant filed proof of publication on February 17, 2021. No party intervened in this docket.

The Office of Regulatory Staff (ORS) is a party of record pursuant to Section 58-4-10(B) of the South Carolina Code of Laws (Supp. 2020), and filed a notice of appearance on January 25, 2021. ORS submitted correspondence to the Commission dated May 12, 2021, indicating it had reviewed the Application but would not file testimony or participate in the hearing. ORS notified the Commission it would “ensure that the Applicant will have complied with all applicable Statutes, Regulations and any conditions of the Commission Order prior to the issuance of such Certificate,” if the Commission approved of the certificate.

The Commission held a public hearing on May 13, 2021, at 10:00 a.m. The Applicant submitted the direct testimonies of its Executive Director and its Project Manager, as well as evidence of its plans and the details of this proposal.

### **III. EVIDENCE OF RECORD**

The Application and evidence presented at the hearing establishing the Applicant is financially sound, as set forth in its Financial Statement, owns the two vehicles designated for use in its application, and has insured both vehicles. The Applicant submitted evidence of its status with the South Carolina Secretary of State’s Office and the Internal Revenue Service. Furthermore, the Applicant presented evidence regarding the qualifications of employees and the program safeguards it has in place. The Applicant

provided detailed information regarding the need for the particular service this proposal will provide to the community and the specific route and schedule the motor carrier service will follow. The Applicant offered the direct testimonies and the hearing testimonies of the Executive Director of the Applicant, Jackie O'Bannon, and the Project Manager of the Applicant, Darryl Owens, and entered nine exhibits into evidence. The evidence included a certification the Applicant is familiar with the statutes and regulations governing passenger motor carriers operating with a Class A Certificate, owns two vans with occupancy for twenty-six persons, has employed a mechanic and will continue to do so as needed, has employed two experienced drivers and back-up drivers, and has knowledge of the needs of the community the Applicant seeks to serve and the need for the specified, designated service it proposes.

#### **IV. APPLICABLE LAW**

The Commission has the authority to approve the classification of every motor carrier in South Carolina, as established in Section 58-23-1010, South Carolina Code of Laws (2015). The South Carolina Code of State Regulations (2012) states: “[a] Class A motor carrier is a common carrier by motor vehicle of passengers, operating over regular routes and upon regular schedules as filed with and approved by the commission.” S.C. Code Ann. Regs. 103-110 (2012).

Pursuant to Section 58-23-220(1) of the South Carolina Code of Laws (2015), a Class A certificate may be issued to an applicant “when the public convenience and necessity in such territory are not already being reasonably served by some other certificate holder or common carrier, provided such applicant propose to operate on a fixed schedule.”

Section 58-23-330 sets forth the grounds on which the Commission may approve or deny the issuance of a certificate: “[a]n applicant applying for a certificate . . . may be approved upon a showing based on criteria established by the commission that the applicant is fit, willing, and able to perform appropriately the proposed service.”

Regulation 103-133(4) establishes the proof an applicant for a Class A Restricted Certificate, as sought in this docket, must provide to the Commission to give the Commission justification for approving the application:

An application for a Certificate of PC&N [Public Convenience and Necessity] . . . to operate as a carrier of passengers by motor vehicle may be approved upon a showing that the applicant is fit, willing, and able to appropriately perform the proposed service, provided however, if an intervenor shows or if the commission determines that the public convenience and necessity is already being served, the commission may deny the application. The following criteria should be used by the commission in determining that an applicant for motor carrier operating authority is fit, willing, and able to provide the requested service to the public:

- a. FIT. The applicant must demonstrate or the commission determines that the applicant's safety rating is satisfactory. This can be obtained from U.S.D.O.T. and S.C.D.P.S. safety records. Applicants should also certify that there are no outstanding judgments pending against such applicant and that applicant is financially fit to do business as a certified carrier. The applicant should further certify that he is familiar with all statutes and regulations, including safety regulations, governing for-hire motor carrier operations in South Carolina and agree to operate in compliance with these statutes and regulations.
- b. ABLE. The applicant should demonstrate that he has purchased, leased, or otherwise arranged for obtaining necessary equipment to provide the service for which he is applying. The applicant should also provide evidence in the form of insurance policies or insurance quotes, indicating

that he is aware of the commission's insurance requirements and the costs associated therewith.

- c. WILLING. Having met the requirements as to “fit and able”, the submitting of the application for operating authority would be sufficient demonstration of the applicant's willingness to provide the authority sought. The applicant must demonstrate a willingness to comply with all commission regulations.

S.C. Code Ann. Regs. 103-133 (4) (2012).

Finally, the specific route and schedule approved by the Commission may not be changed without a written permit from the Commission: “No motor vehicle carrier holding a certificate A . . . shall change the route or schedule of his motor vehicle during any year for which a license has been issued without procuring a permit in writing from the Commission before the route is changed.” S.C. Code Ann. § 58-23-1020 (2015).

## **V. FINDINGS OF FACT**

1. Applicant is familiar with, and agrees to comply with, all applicable rules and regulations governing motor carriers operating under a Class A Restricted Certificate.
2. Applicant provided a satisfactory safety rating from the South Carolina Department of Public Safety, and certified there are no outstanding judgments pending against it and that it is financially fit to carry out the proposed carrier services. Furthermore, the Applicant certified it agrees to operate in compliance with the statutes and regulations that govern motor carriers operating with a Class A Restricted Certificate.
3. The evidence shows the Applicant owns two vans and has fully insured both vehicles; the vans have undergone inspection, and the Applicant has employed two

experienced drivers. The Applicant submitted photographs of the vehicles, and insurance quotes with sufficient specificity.

4. The testimonies of the Executive Director and the Project Manager demonstrated a willingness to provide the motor carrier service for which Applicant seeks authority and to comply with all Commission regulations and rules.

5. Applicant is fit, willing, and able to perform the service it proposes, and the Application should be approved.

6. ORS will ensure the Applicant meets all appropriate requirements for the issuance of a Class A Restricted Certificate.

## **VI. CONCLUSIONS OF LAW**

1. Applicant is fit, willing and able to appropriately perform the services proposed in the Application, pursuant to the criteria specified in Regulation 103-133 (4).

2. Applicant has shown the public convenience and necessity is not already being served, nor did an intervenor prove such to the Commission, pursuant to Regulation 103-133(4).

3. Applicant proposes to operate over regular routes and upon regular schedules pursuant to a Class A Restricted Certificate, as set forth in Regulation 103-110.

4. The regular routes and regular schedules do not include the transportation of any special or chartered parties along the authorized routes, and thus this Class A Certificate is Restricted to the regular routes and schedules as set forth in the Application. *See* Regulation 103-110.

## **VII. ORDERING PROVISIONS**

### **IT IS THEREFORE ORDERED:**

1. The Application of Antioch Educational Center for a Class A Resticted Motor Carrier Certificate of Public Convenience and Necessity is approved.

2. The Applicant shall file with ORS the proper license fees, proof of liability insurance (Form E), and other information required by Sections 58-23-10 through 1830 of the South Carolina Code of Laws (2015), by the South Carolina Code of State Regulations, 103-100 through 846 (2012), and by Regulations 38-400 through 447 (2011), within ninety days of the date of this Order, or within such additional time as may be authorized by the Commission.

3. Upon compliance with the filing of information as required by Sections 58-23-10 through 1830, and Regulations 103-100 through 846, a Certificate shall be issued by ORS to the Applicant authorizing the motor carrier services granted herein.

4. Prior to compliance with the requirements regarding the filing of certain information with the ORS and receipt of a Certificate, the motor carrier services authorized by this Order may not be provided.

5. Failure of the Applicant to either (1) complete the certification process by complying with the requirements of filing with the ORS proof of appropriate insurance and the payment of license fees and such other information required by law within ninety (90) days of the date of this Order or (2) request and obtain from the Commission additional time to comply with the requirements stated above, this Order granting the Application


shall be deemed null and void, and the Application herein shall be dismissed without prejudice. In this event, no further order of this Commission is necessary.

6. Pursuant to the two-month reporting requirement contained in Order Number 2014-443 (May 21, 2014), ORS shall notify the Commission, specifying the name and docket number, if the Applicant fails to comply with the requirements set forth in this Order. After such notification, the Docket shall be closed.

7. Pursuant to S.C. Code Ann. Section 58-23-1020, the Applicant shall not change its regular routes or regular schedules as set forth in this Application without a written permit from the Commission.

8. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



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Florence P. Belser, Vice Chair  
Public Service Commission of  
South Carolina